IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 7661 of 2004

Between:
Kamala Bai Shinde, W/o.Vaijanath Rao,
R/o.H.No.19-4-200/B/37, Khaja Nagar, Opp:Khaja Pahadi,
Tadbund,Hyderabad.

..... PETITIONER

AND

1 The Commissioner, Municipal Corporation of Hyderabad,
Tankbund,
Hyderabad.
2 The Asst.,City Planner, Municipal Corporation of Hyderabad,
(T.P.Section,Cricle.II) Hyderabad.
3 The Superintending Engineer, Master plan, Erragadda, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the action of the respondents, as illegal, irregular, high handed contrary to the report of the M.R.O.,Bandlaguda, Hyderabad District and against the provisions of Municipal Corporation Act, in not granting permission to construct the petitioner house in plot No.19-2-281/45./A, situated at Ranjan Colony, Nawab Saheb Kunta, Hyderabad and set-aside the letter No.81/2/19/B/45/A,2003-04, dt. 31-3-2004, issued by the 2nd respondent herein, by issuing a writ order or direction more particularly one in the nature of writ of Mandamus,

For the Petitioner : Ms.K.N.VIJAYA LAXMI, ADVOCATE

For the Respondent No.: MR.RAMA RAO GANTA, S.C. FOR M.C.H.

The Court at the admission stage made the following :

ORDER:

The present writ petition is filed questioning the action of the respondent in not granting permission to the petitioner to construct house in House No.19-2-281/45/A, situate at Ranjan Colony, Nawab Saheb Kunta, Hyderabad and to set aside the letter dated 31-3-2004 stating that the subject site is left for proposed park.

The petitioner claims that she has purchased the subject plot under a registered deed dated 30-6-1994 and in possession and enjoyment of the same. The petitioner allege that certain structures therein were demolished by the respondent corporation and questioning the interference of the respondent corporation she has filed a suit in O.S.5416 of 1994 and the same was decreed in her favour vide order dated 23-3-1998. It is also stated that she made an application for permission to construct the house and the respondents on the instigation of certain persons has rejected the same on the ground that the subject land is earmarked for proposed park. Hence, the present writ petition.

Though several contentions were raised, in nut-shell, the petitioner is aggrieved by the action of the respondents in rejecting her application for construction of house in the subject land on the ground that the same is earmarked for proposed park.

Heard learned counsel for petitioner and learned Standing Counsel for respondent corporation.

Learned counsel for petitioner submitted that the petitioner is owner and possessor of the subject land and questioning the interference by the official of the respondent corporation has filed a suit in O.S.No.5416 of 1994 and obtained a decree in her favour vide order dated 10-10-2003. It is stated that with a view to harass the petitioner and grab the property, on instigation of certain persons, application of the petitioner for construction of house was rejected by the respondent corporation on the ground that the subject land is earmarked for proposed park.

Learned Standing Counsel for respondent corporation on

instructions submitted that the subject land is a private land and the original owner of the said land approached the municipal corporation for sanction of lay out wherein the subject land was shown as site for "proposed park" and the same was purchased by the petitioner. It is also stated that since the land is earmarked for proposed park, permission to construct a house therein was rejected and the same cannot be said to be an illegal action.

In the above circumstances, this Court cannot direct the respondents to grant permission to the petitioner for construction of house in the subject land which is earmarked for park. However, the petitioner is at liberty to initiate appropriate proceedings against the original owner who has sold the subject land to him.

There are no merits in the writ petition warranting interference by this Court. Accordingly, the writ petition is dismissed at the stage of admission.

ASSISTANT REGISTRAR

//True copy//

SECTION OFFICER

TVK

To

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Tankbund,
Hyderabad.
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